INDEX

Objections [illegible] 1
Introduction 1
Questions propounded 2
Statutes involved 2
Statement 3
I. The court produces energy 6
II. The general litigant and its origin 7
Argument 10
Introduction and summary 10
I. A court of equity has the power to protect the enforcement of its decree by issuing a supplementary order against a receiver after notice and hearing 11
II. General Illinois statutes of limitation unquestionably conform with the operation of the most powerful decree by creating a prohibited relationship 20
Conclusion 40
Appendix 41

CITATIONS

Cases
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17
[illegible] 17

Cases Continued

Kasper v. Brittain, 245 F. 2d 92, certiorari denied, 355 U. S. 835 17

Keda v. Hurley, 179 F. 2d 000 14

Liquid Carbonic Corp. v. United States, 330 U. S. 000, reversing 123 F. Supp. 000 20

Mercoupe v. Piper Aircraft Corp., 351 Ill. App. 000, 31 N. E. 2d 000 (1948) 16

Minneapolis Valley Barge Line Co. v. United States, 273 F. Supp. 1, affirmed sub nom. *Mercoupe v. Valley Barge Line Co.*, 390 U. S. 570 17

Missouri Pacific Co. v. Interstate Commerce Commission, 227 U. S. 28

Norwood v. Peterson, [1897] 1 Q. B. 343 16

Scott v. Hagold, 165 F. 2d 102 13

Seaboard Air Line v. United States, 250 U. S. 311 ..... 6, 9, 10, 20

United States v. Illinois Enterprises, 000 U. S. 00 20

United States v. Hayes, 000 F. Supp. 000 10

United States ex rel. Interstate Commerce Commission v. Illinois, 278 U. S. 333 ..... 8, 11

United States v. Jo Bonnet, 000 U. S. 000 ..... 11, 12

United States v. Norfolk & Western Ry. Co., 000 F. Supp. 000 3

United States v. Norfolk & Western Ry. Co., 000 F. Supp. 000 27

United States v. Norfolk & Western Ry. Co., 000 U. S. 000, certiorari denied, 000 U. S. 000 ..... 27, 28, 29

United States v. Norfolk & Western Ry. Co., 000 F. Supp. 000 27

United States v. Norfolk & Western Ry. Co., 000 U. S. 000, 000 U. S. 000 13

United States v. Pennsylvania Industrial Chemical Corp., 000 U. S. 000 20

United States v. Wallace, 000 F. Supp. 000 27

Statutes and rules

All Writs Act, 28 U. S. C. 1651 17

Clayton Act, Section 13, 15 U. S. C. 13 19

Clayton Act, Section 16, 38 Stat. 738 13

Expediting Act of February 11, 1903, 32 Stat. 823, as amended, 15 U. S. C. 29 20

Interstate Commerce Act, Section 15, 24 Stat. 383, as amended, 49 U. S. C. 15 28

Interstate Commerce Act, Section 15a, 54 Stat. 911, as amended, 49 U. S. C. 15a 28

Congressional

Hearings before the House Committee on Ways and Means, 91st Cong., 1st Sess., March 12, 1969, Part 7 33

H. Rep. No. 827, 63rd Cong., 2d Sess. 14

H. Rep. No. 612, 62nd Cong., 2d Sess. 14

H. Rep. No. 1211, 90th Cong., 2d Sess. 33

Limiting Federal Injunctions, Hearings Before a Subcommittee of the Senate Judiciary Committee, 63d Cong., 2d Sess. on H.R. 23055 14

Miscellaneous

F.T.C., *Coal Investigation: Report on the West Pocahontas Industry* (1919) 3

1968 Moody's Industrial Manual, Moody's W. T. Grimm and Company 33

Moody's *Industrial Manual* (July 1968) 7

New York Times, April 30, 1969 10

New York Times, May 13, 1969 10

Note, Binding Arbitration to Injunction Issues, 80 Harv. L. Rev. 719 28

Note, Coal Fields Office, 83 Harv. L. Rev. 347 33

Note, Developments in the Law: Injunctions, 78 Harv. L. Rev. 994 18

Note, The Status of Federal Injunctions, 9 Utah L. Rev. 263 18

Report of the Task Force on Antitrust Policy 33

Report of the Attorney General's National Committee to Study the Antitrust Laws 33

In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 103

UNITED STATES OF AMERICA, APPELLANT

v.

MONROE & COMPANY AND GENERAL HOST CORPORATION

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

BRIEF FOR THE UNITED STATES

OPINION BELOW

JURISDICTION

U.S.C. 29; *United States v. United Shoe Machinery Corp.*, 391 U.S. 244.

QUESTIONS PRESENTED

The Meat Packers Consent Decree of 1920 (App. 28-43) prohibits Armour & Company from dealing directly or indirectly in most commodities sold in the general grocery business, from having any interest in a corporation dealing in such commodities, and from engaging in the retail distribution of meat products. General Host Corporation, which is in the bakery, convenience grocery and restaurant businesses, was not a party to this decree. The questions presented are:

1. Whether the acquisition by General Host Corporation of a controlling stock interest in Armour & Company creates a relationship in violation of the consent decree.
2. If the answer to the first question is "yes," whether, under Section 5 of the Sherman Act, the district court should have made General Host Corporation a party to the decree proceedings and issued an order against it to prevent or eliminate violation of the decree.

STATUTES INVOLVED

Section 5 of the Sherman Act, 15 U.S.C. § 5, provides:

> Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the dis-

> trict in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

The All Writs Act, 28 U.S.C. 1651, provides in pertinent part:

> (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

STATEMENT

A. THE MEAT-PACKERS DECREE

After a comprehensive investigation by the Federal Trade Commission of the meat slaughtering and packing industry, the United States, on February 27, 1920, filed a bill in equity against Swift & Company, Armour & Company, Wilson & Company, Inc., the Cudahy Packing Company, and Morris & Company, these the nation's largest meat packers, charging that they and some 80 other associated corporations and individuals were attempting to monopolize a substantial part of the nation's food supply and to restrain the monopoly in various ways. The stated purpose

[illegible]

The bill was filed in the District of Columbia in 1919, in proceedings for modification of the decree, the case was transferred under 28 U.S.C. [illegible] to the Northern District of Illinois. United States v. Swift & Company, 122 F. Supp. 951 (1954).

of the suit was to end the monopoly and deprive the defendants of the instrumentalities by which it was being achieved. See *Swift & Co. v. United States*, 276 U. S. 311, 319 (hereinafter, *Swift I*).

The bill alleged that, by reason of their size and predatory practices, the five largest meat packing companies had acquired control of the "supply and the price of the food supplies of the Nation" in violation of the Sherman and Clayton Acts (App. 11). Specifically, the bill charged that the defendants by combination and conspiracy had gained control of the nation's dominant stockyard facilities, the terminal railroads connecting the yards with long haul railroads, and the trade newspapers and market journals; and had developed vast national systems of distribution, involving the use of 90 percent of all available refrigerated railroad cars and great numbers of private and public cold storage facilities (App. 12-20). It was further alleged that the defendants had used these controlled facilities and the power that came from their great size to eliminate their competitors as significant factors in the market for livestock and, in order to eliminate competition among themselves, had entered into percentage purchasing arrangements allocating shares of the total supply offered at the various stockyards (App. 20-21).

In addition, the bill charged that, having destroyed competition in meats, the defendants also attempted to gain control of other food supplies that might be substituted for meat. That objective was pursued through the acquisition of a large number of companies

food companies and by means of exclusive output contracts with other suppliers. In marketing these "substitute" products, the defendants utilized their existing distributive facilities at virtually no increase in overhead or operating expenses and employed their advantages "temporarily to fix prices so low as to gradually eliminate competition" (App. 21-22). The prayer for relief sought, *inter alia*, divestiture of most non-packing operations and a permanent exclusion of the defendants from the substitute food lines (App. 25-27).

Simultaneously with the filing of the bill and the defendants' denial, there was filed a stipulation consenting to the entry of an agreed decree (the Meat Packers Decree). Although the decree reflected some measure of compromise, in general it granted the relief sought by the government. As to the requested exclusion from non-meat packing lines of commerce ("structural relief"), the defendants were required to liquidate their interests in a wide variety of food and non-food lines. Among other things, they were required to divest themselves of any interest in the business of "manufacturing, jobbing, selling, transporting * * * distributing, or otherwise dealing" in some 111 specified food products (principally fish, vegetables, fruit, groceries, bakery products and fresh milk or cream) and 56 other products were enjoined for the indefinite future from directly or

indirectly engaging in, or holding any interest in, any company engaged in any such business (Paragraphs Fourth and Eighth, App. 30-34, 37-38);[1] and were prohibited from owning, operating or conducting, directly or indirectly, any retail meat markets (Paragraph Sixth, App. 36).[2] In sum, a complete and continuing separation between the meat packer defendants and the general food business was decreed. Finally, paragraph Eighteenth of the decree (App. 43) provided that jurisdiction was retained by the court "for the purpose of taking such other action or adding to the text of this decree such other relief * * * as may become necessary or appropriate for the carrying out and enforcement of this decree and for the purpose of entertaining at any time hereafter any application which the parties may make with respect to this decree."

The basic validity of the consent decree was soon challenged, unsuccessfully, by the defendants, including Armour (*Swift I, supra*; see, also, *United States v. Uniform Cooperative Canneries*, 279 U.S. 553). In 1936 Armour and the other packer defendants, claiming that their power had declined and that conditions in the food business had changed, sought to have the decree modified so as to relieve them from

[1] Specific exceptions were authorized for supplies needed for packing house operations, construction of packing houses, etc., and "restaurants * * * primarily for the benefit of their employees" (App. 31).

[2] The individual stockholder defendants, however, were permitted only from holding more than a 50 per cent interest in firms engaged in the forbidden lines of commerce (Paragraph Sixth, App. 34-36).

the structural bars against engaging in various aspects of the general food and retail meat businesses. This Court rejected their effort in *United States* v. *Swift & Co.*, 286 U.S. 106 (hereinafter *Swift II*). The packer defendants again sought similar relief on similar grounds in 1956; after an elaborate factual re-examination of the decree's purpose and of the nation's food industry as then structured, the district court refused to modify the decree and this Court summarily affirmed. *United States* v. *Swift & Co.*, 189 F. Supp. 885 (N.D. Ill.), affirmed, 367 U.S. 909 (hereinafter, *Swift III*).

B. THE PRESENT LITIGATION AND ITS ORIGIN

Armour is now the second largest meat packer in the United States, with total assets of almost $700 million and total sales in 1967 of approximately $2,150,000,000. In addition to meat packing, Armour has diversified into the manufacture, processing and sale of various non-prohibited products, such as dairy products, soaps and household cleaners, industrial chemicals, pharmaceuticals, construction equipment, heavy machinery and industrial equipment. (Moody's *Industrial Manual* July 1968, pp. 2469-2473.)

General Host Corporation (which until April 1967 was known as General Baking Company) is a smaller company engaged in the manufacture and sale of numerous food products, including bread, crackers, candy and frozen convenience foods. Its bakery divi-

In 1967, General Host had assets of [illegible] million and total sales of approximately $133 million (App. 33). However, these figures do not include the sales or assets of [illegible] General Store,

sions operate under the brand names "Bond," "Van de Kamp's" and "Eddy." In addition General Host operates approximately 380 convenience grocery stores (which retail some meat products as well as groceries and fresh milk and cream) under the name "Li'l General" Stores; it also operates lodges, restaurants and other facilities in Yellowstone and Everglades National Parks, and several restaurants and coffee shops in the Los Angeles area. (App. 47–48, 52–53, 57.) Thus, it is unconfested that General Host, which is not a party to the Meat Packers Decree, is engaged in lines of business that Armour, as a party to the decree, would be prohibited to enter directly or through stock ownership.

Early in 1969, General Host, which then held approximately 16½ percent of Armour's outstanding common stock, decided to make an exchange offer to acquire at least 51 percent of Armour's stock (App. 48, 53–54, 57–58). The Armour management vigorously opposed the takeover attempt and cannot be charged with any acts tending or designed to create any relationship between the two companies.

On January 20, 1969, the government filed a petition in the meat packers proceeding for a temporary restraining order and an injunction supplemental to the consent decree to restrain General Host from ac-

---

Inc.," which was merged into General Host on July 19, 1968. For the 54 weeks ended on October 5, 1968, combined sales totaled $156 million and assets as of that date were approximately $84 million (Proxy Statement filed December 27, 1968, pp. 14, 32).

quiring any additional shares of stock in Armour and from taking any action to exercise control over or to influence the business affairs of Armour as long as General Host deals in products prohibited under the decree. The petition prayed that, to this end, General Host be brought before the court under Section 5 of the Sherman Act.

On January 21, 1969, a hearing was held on the government's petition. General Host filed affidavits and a response urging the court not to make it a party under Section 5 because its exchange offer did not violate the decree. The court ruled that it would deny the government's petition, stating that while the decree prohibits the defendants from holding a controlling interest in a company handling any of the prohibited products, it does not prohibit such a company from controlling one of the defendants (App. 172). The court stated that the acquisition of Armour by General Host would not necessarily put Armour in any of General Host's other businesses and that such a consequence was not imminently threatened (App. 162, 173–174). On January 30 the court entered findings, conclusions and an order denying the petition to make General Host a party and denying the requested injunctive relief (App. 153).

Within a short time after the district court's ruling, General Host had acquired 57 percent of Armour's stock. At the February 21, 1969, annual meeting of Armour, General Host voted its stock so as to place four directors on Armour's 17-member board

of directors; these include the President and Chairman of the Board of General Host. In addition, Greyhound Corporation, which had acquired 33 percent of Armour's stock in a competing tender offer, placed two directors on the board. (Only six of the 17 directors were up for election at this meeting.) On May 12, 1969, the Armour board created a six-member executive committee to manage Armour's operations. This committee includes the two Greyhound directors and two of the General Host directors. As part of this arrangement, the Prince family (which had controlled Armour) relinquished its control. See New York Times, April 30, 1969, p. 70, col. 2 and May 13, 1969, p. 61, col. 1.[7]

ARGUMENT

INTRODUCTION AND SUMMARY

The Meat Packers Decree of 1920 was aimed at "preventing a long feared monopoly in meat and other food products." *Swift I*, 276 U.S. 311, 318–319. One aspect of this threat to the vital food sector of the economy involved the giant meat packers' efforts to obtain control over foods which might substitute for meats. To forestall that threat the decree flatly barred the corporate defendants, including Armour, from dealing in any way, directly or indirectly, in a vast range of substi-

[7] In addition, we are informed that General Host has reached an agreement for the sale of its interest in Armour to Greyhound in exchange for cash, a promissory note, and Greyhound preferred stock and warrants. This agreement is still subject to several contingencies. Greyhound has not disclosed whether it intends to dispose of various of its own food operations which would be prohibited to Armour under the decree.

tute foods and other products and from having any financial interest whatever in any corporation dealing in the forbidden lines. More than a decade of litigation was required before this relief became operative (*Swift III,* 189 F. Supp. at 893, 898), and these provisions precluding the meat packers from the grocery field have been challenged without success on three occasions—once by a non-party which sought to intervene for this purpose (*United States* v. *California Cooperative Canneries,* 279 U.S. 553) and twice by the corporate defendants themselves (*Swift II,* 286 U.S. 106; *Swift III,* 189 F. Supp. 885, affirmed, 367 U.S. 909). Less than ten years ago, in *Swift III,* this Court re-examined the decree and sustained the judgment court's refusal to lower the structural barrier, which, the government contended, played a significant role in maintaining competition in both the general food and the meat packing industries.

Now, in an unprecedented era of corporate concentration, the decision of the district court in the instant proceeding has opened a new route for avoidance of this long defended safeguard against monopoly. It has sanctioned the very inter-relationship between one of the great meat packer defendants and a general food company which the decree prohibits. Under the court's ruling a defendant packer and any general food company may be combined in a stock relationship, notwithstanding the decree's prohibitions, so long as the food company is the acquiring party and the meat packer does not voluntarily assent to the acquisition or agree to any consensual arrangements concerning the takeover.

This ruling invites general frustration of structural prohibitions in antitrust decrees through involuntary takeovers, an increasingly common business phenomenon. The decision below, therefore, not only incorrectly vitiates the effectiveness of the meatpackers decree; it generally sanctions business practices which would threaten the effectiveness of other government antitrust decrees, whether litigated or consent, in monopolization and merger cases. Many other antitrust decrees provide similar structural prohibitions,[8] and such prohibitions may also be an important aspect of the relief in future cases involving industrial concentration.

The district court's ruling is inconsistent with established principles which protect equity decrees from obstruction, interference or frustration. Although injunctions do not run against the world, courts of equity have traditionally found the power to prevent them from being defeated by non-parties. After appropriate notice and hearing to determine whether a non-party is undermining its injunction, a court can issue a supplemental order against him restraining such interference. The power of the federal district courts to protect the integrity of their decrees in this manner derives from the inherent nature of their equitable jurisdiction, from the All Writs Act, 28 U.S.C. 1651(a), and, in antitrust cases, from the specific provision of Section 5 of the Sherman Act giving jurisdiction to bring additional parties before the court where the ends of justice so require.

[8] See Appendix, *infra*, pp. 35–37.

The district court should have exercised this power here. Its thrice-challenged decree stands unmodified, and there has been nothing to weaken the underlying premise that any combination of Armour's market power with firms operating in the substitute food lines risks serious competitive injury to the public interest. The decree was intended to eliminate any need to wait until such injury imminently threatens or actually occurs before effective relief can be obtained. That is the very reason why it contains structural provisions which not only terminated the corporate defendants' relationships with firms in the substitute food lines, but also forbade their renewal by the acquisition of any interest whatever in such firms. There were simply to be no such inter-corporate proprietary relationships. By destroying the complete separation of firms required by the decree, General Host's takeover has interfered with its operation to the same extent as would an acquisition of General Host by Armour in direct violation of the decree. In order to protect the effectiveness and integrity of the decree, therefore, that interference should have been restrained and should now be remedied.

I

A COURT OF EQUITY HAS THE POWER TO PROTECT THE INTEGRITY OF ITS DECREE BY ISSUING A SUPPLEMENTARY ORDER AGAINST A NONPARTY AFTER NOTICE AND HEARING

We do not contend that General Host is bound by the Meat Packer's Decree as presently written, *i.e.*, that it is subject to punishment for contempt of that

decree. But we do not believe that it follows—as the court below held—that the existence of that decree is wholly irrelevant to General Host's establishment of a relationship with one of the actual parties to that decree so long as General Host avoids formal identity or active concert with that party. Rather, we believe that a court of equity's decree—and particularly a structural antitrust decree—is something more than a literal *in personam* command to the parties and their strict privies, and that a court does have the power to modify its decree to bring additional parties within its coverage if it determines, after giving them an opportunity to be heard, that fulfillment of the underlying purpose of the decree so requires.

Those persons who are directly bound by a federal court decree are described in Rule 65(d) of the Federal Rules of Civil Procedure, which provides that an injunction "is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise." The same general rule was expressed in almost identical language in Section 19 of the Clayton Act as enacted six years prior to the entry of the Meat Packers Decree (38 Stat. 738),[9] and the Decree did not

[9] Section 19 of the Clayton Act was a direct response to judicial issuance of excessively broad injunctions in labor disputes. See H. Rep. No. 627, 63d Cong., 2d Sess., incorporating H. Rep. No. 612, 62d Cong., 2d Sess.; *Limiting Federal Injunctions*, Hearings Before a Subcommittee of the Senate Judiciary Committee, 63d

purport to exceed those boundaries. One reason for these limitations upon the direct coverage of an injunction is, of course, the seriousness and immediacy of the sanction for violating it; those bound by a decree entered by a court with jurisdiction over them and the subject matter must obey it on pain of summary punishment in a proceeding in which the propriety of the decree itself is not open to question. *Howat* v. *Kansas*, 258 U.S. 181, 189–190; *United States* v. *United Mine Workers*, 330 U.S. 258, 293–294. "The respondent may only deny any knowledge of the decree, or that his act was within it. The unlawfulness of his conduct has been determined, and, if he has not been a party and has had no day in court, he is condemned without hearing. It is by ignoring such procedural limitations that the injunction of a court of equity may by slow steps be made to realize the worst fears of those who are jealous of its prerogative." *Alemite Manufacturing Corp., supra*, 42 F. 2d at 833.

Even the direct effect of a decree does, however, reach beyond those parties particularly named in it. Thus, if a nonparty interferes with or obstructs the operation of an injunction by acts in active concert or participation with a defendant, the nonparty may be held in contempt even though there is no injunction specifically against him. Such a person is "bound, like other members of the public, not to interfere with,

---

Cong., 2d Sess., on H.R. 23635. See also *Chase National Bank* v. *Norwalk*, 291 U.S. 431, 436–437; *Scott* v. *Donald*, 165 U.S. 107; *Kean* v. *Hurley*, 179 F. 2d 888 (C.A. 8); *Alemite Manufacturing Corp.* v. *Staff*, 42 F. 2d 832 (C.A. 2).

and not to obstruct the course of justice." *Seward* v. *Paterson*, [1897] 1 Ch. 545, 554 (C.A.); *Marengo* v. *Daily Sketch, Ltd.*, 1 All Eng. Rep. 406 (H. of L. 1948). In federal practice, this aspect of a court's power to vindicate its authority against persons not named in a decree is reflected in the "active concert or participation" language of Rule 65(d).

If a nonparty threatens injury to the plaintiff, but does so by acts wholly independent of any of the named parties, he is, of course, not subject to punishment for violation of the existing decree (*Chase National Bank* v. *Norwalk*, *supra*; *Alemite Manufacturing Corp.* v. *Staff*, *supra*); the plaintiff can receive protection from him only by a *de novo* injunction proceeding in which the earlier decree has only *stare decisis* effect if the acts involved are similar. But if the nonparty knowingly interferes with, obstructs or frustrates a named defendant's performance of his obligations under the decree—then it is appropriate for the court to provide a remedy in the original proceeding.[10] Even though such a nonparty is not in such privity or concert with a named party that the party can be deemed to be acting through him as an *alter ego* or agent, nonetheless the nonparty's actions do constitute a threat to the court's ability to insure achievement of the result it has decreed. Just as a party to a private contract has a right, arising from the existence

[10] In the present case, there is no question of the decree court's personal jurisdiction over General Host. See pp. 19, 34, *infra*.

of his contract, to prevent third parties from interfering with his enjoyment of his rights under the contract, similarly, and *a fortiori,* the court has authority, arising from the existence of its decree, to restrain frustration of the performance of that decree.

The court's power to vindicate its own authority by supplementing its existing decree derives necessarily from the continuing nature of that decree (cf. *Swift II*, 286 U.S. at 114), from the court's inherent powers to prevent obstruction of its authority, and from the All Writs Act, 28 U.S.C. 1651(a). See, *e.g., Kasper* v. *Brittain*, 245 F. 2d 92, 97 (C.A. 6), certiorari denied, 355 U.S. 834; *Faubus* v. *United States*, 254 F. 2d 797 (C.A. 8); *Brewer* v. *Hoxie School District No. 46*, 238 F. 2d 91 (C.A. 8).[11] In such a proceeding the original decree is the measure of whether the defendant is interfering with the court's order and

[11] See also, *Bullock* v. *United States*, 265 F. 2d 683, 691 (C.A. 6), certiorari denied, 360 U.S. 909; *United States* v. *Wallace*, 218 F. Supp. 290 (N.D. Ala); cf. *Federal Trade Commission* v. *Dean Foods Co.*, 384 U.S. 597. The general principle was well stated by a dictum in *Mississippi Valley Barge Line Co* v. *United States*, 273 F. Supp. 1 (E.D. Mo.), affirmed *sub nom. Osbourne* v. *Mississippi Valley Barge Line Co.*, 389 U.S. 579:

"It is well settled that the courts of the United States have the inherent and statutory (28 U.S.C.A. § 1651) power and authority to enter such orders as may be necessary to enforce and effectuate their lawful orders and judgments, and to prevent them from being thwarted and interfered with by force, guile, or otherwise. [Citations omitted.] This rule applies whether or not the person charged with the violation of the judgment or decree was originally a party defendant to the action." (273 F. Supp. at 6.)

should be restrained from doing so.[12] The party thus sought to be restrained has, of course, the opportunity to litigate the question whether his acts do in fact interfere with the decree before he is subjected to any risk of punishment for contempt.

The necessity of such a power to protect the initial decree by its supplementary extension to additional parties is exemplified by the facts of the present case. Assuming for present purposes what we show in the next section of this brief—that General Host's relationship with Armour violates the decree—there is simply no way to remedy it unless the decree can be supplemented. General Host has done nothing that can be punished directly as a contempt of the existing decree. And Armour, though bound by the decree, is innocent of any responsibility for creating the forbidden relationship, since it was unable to prevent its owners from selling their stock to whomever they wished; thus the court is powerless to issue any remedial order against Armour. Unless the court can proceed against General Host—after notice and hearing—it is impotent to remedy a situation that its decree was designed to prohibit. We do not believe that a court of equity is condemned to such impotence.

The text of the Meat Packers Decree itself provides properly for the kind of situation which has now presented itself, where the operation of the decree upon a

---

[12] See, generally, Note, *Developments in the Law—Injunctions*, 78 Harv. L. Rev. 994, 1028–1031; Note, *The Range of Federal Injunctions*, 6 Utah L. Rev. 363.

named defendant is immediately jeopardized. Paragraph Eighteenth of the decree provides that jurisdiction of the cause is retained by the decree court "for the purpose of * * * adding to the foot of this decree such other relief, if any, as may become necessary or appropriate for [its] carrying out and enforcement * * *" (App. 43). In support of that provision—and even apart from it—Section 5 of the Sherman Act provided an ample jurisdictional basis for bringing General Host before the decree court. It expressly authorizes the bringing of additional parties before the court wherever the ends of justice so require.[12] Thus, Section 5 provides a ready remedy by which a court which has issued a decree under the Sherman Act[13] may, consistent with the limitations on injunctive relief expressed in F.R. Civ. P. 65(d), exercise its power to prevent obstruction *of justice and to vindicate its authority*, while avoiding the danger that a nonparty may be denied a hearing on the question whether his conduct should be restrained.

Since a remedy is, therefore, available for preventing interference by nonparties with the operation of the Packers Decree, the remaining question is whether General Host's takeover of Armour constitutes such interference.

---

[12] Although such action does not *ipso facto* make a decree's provisions binding upon the supplemental party, *United States v. Bayer Co.*, 105 F. Supp. 955 (S.D.N.Y.), it enables the court to issue an appropriate further order to effectuate the decree.

[13] Section 15 of the Clayton Act (15 U.S.C. 25) contains a parallel provision applicable to proceedings under that Act.

II

GENERAL HOST'S TAKEOVER OF ARMOUR IMPERMISSIBLY INTERFERES WITH THE OPERATION OF THE MEAT PACKERS DECREE BY CREATING A PROHIBITED RELATIONSHIP

1. Both the plain language of the decree and its extensive history in the courts indicate that General Host's acquisition of control over Armour creates a relationship which the decree condemns. Paragraph Fourth of the decree unequivocally bars the corporate defendants from dealing in any way in 114 specified food products (including products which General Host and its subsidiaries make or sell) and 30 other articles. To give full effect to this safeguard of competition in the food industry, Paragraph Fourth also forbids the corporate defendants from "owning, either directly or indirectly * * * any capital stock or other interest whatsoever in any corporation, firm, or association" dealing in the forbidden products or commodities (App. 30–34). Similarly, Paragraph Eighth bars the corporate defendants from dealing in or having any interest in firms dealing in fresh milk and cream (App. 37–38).

Although this injunction was the product of negotiation and, to some degree, compromise (*Swift III*, 189 F. Supp. at 906), it rested unmistakably upon the premise that the complete separation of the defendant packers from the general food industry reflected in these structural prohibitions is necessary to preserve competition in the food industry (*Swift I; Swift III*).

The complaint had alleged that the defendants sought to prevent the public from turning to substitute foods, in the event meat prices advanced excessively, by controlling the nation's supplies of these foods. It charged that the defendants were attempting to achieve this control by using their extensive meat distribution facilities to distribute other products without an increase in overhead, and by fixing prices for groceries so low as to eliminate competitors (App. 21–22). The prayer for relief looked not only to barring the means of monopolization thus described but also to the need for complete insulation of these other elements of the food industry from any intrusion of the defendants' economic power. It asked for divestiture of the defendants' substitute food enterprises and a perpetual restraint against their reentry into manufacturing, distributing or selling the substitute products and other commodities or having any stock or financial interest in any firms so engaged (App. 25–27).

This Court, in *Swift II*, took specific note of the threat to competition in other food lines alleged in the complaint, and explained the purposes of the decree's structural prohibitions as follows (286 U.S. at 116–117):

> Whether the defendants would resume [their predatory practice] if they were to deal in groceries again, we do not know. They would certainly have the temptation to resume it. Their low overhead and their gigantic size, even when they are viewed as separate units, would still put them in a position to starve out weaker rivals. Mere size, according to the holding of

> this court, is not an offense against the Sherman Act unless magnified to the point at which it amounts to a monopoly [citations omitted] but size carries with it an opportunity for abuse that is not to be ignored when the opportunity is proved to have been utilized in the past. The original decree at all events was framed upon that theory. It was framed upon the theory that even after the combination among the packers had been broken up and the monopoly dissolved, the individual units would be so huge that the capacity to engage in other forms of business as adjuncts to the sale of meats should be taken from them altogether. * * * To curb the aggressions of the huge units that would remain, there was to be a check upon their power, even though acting independently, to wage a war of extermination against dealers weaker than themselves. * * * Groceries and other enumerated articles they were not to sell at all, either by wholesale or by retail. Even the things that they were free to sell, meats and meat products, they were not to sell by retail.

In short, the purpose of the decree's structural prohibitions was to counteract the threat that the power of the packers would be extended into, and lead to similar dominance in, other aspects of the food industry.

The continuing existence of this power and the threat to competition which had led to the structural restrictions in 1920 and their continuance in unmodified form in 1932 was again recognized in 1960, when, after a comprehensive hearing, the district court refused to

mitigate the separation which had been decreed. "The separation, once complete, was to continue. So long as the power endures, therefore, the divestiture must be maintained, and the defendants forbidden to reacquire what they were ordered to give up." *Swift III*, 189 F. Supp. at 909. In the light of this ruling, and of the fact that the decree remains unmodified, that power and that threat must be presumed still to exist regardless of the ownership of Armour.

It follows that the same reasons which forbade Armour from attempting to acquire General Host—*i.e.*, the avoidance of any combination of Armour's power with General Host's operations in the substitute food lines—condemn General Host's attempt to take over Armour. In either event the feared combination of giant packer and general food firm is created and the danger the decree sought to dispel renewed.[15]

For these reasons, the district court's view that there was no interference with the decree because

[15] Because of the continuing nature of this decree, the Department considers it appropriate to re-examine it periodically in the light of changing conditions in the economy. Cf. *White House Task Force Report on Antitrust Policy*, 115 Cong. Rec. S5642, S5648–5649 (daily ed. May 27, 1969); *Report of the Attorney General's National Committee to Study the Antitrust Laws* (1955), p. 366. The Department currently has under consideration a request by one of the packer defendants other than Armour that it support a proposal to modify the decree so as to permit entry into certain product lines presently prohibited by the decree. Although this matter has not been finally resolved, the Department has concluded that, in light of contemporary conditions, it will not consent to any proposed modification that would permit the packers to enter any form of meat or general food retailing.

"General Host is not a large meat packer extending its monopolistic grasp toward the rest of the food industry" (F. 24, App. 150) misconceives the thrust of the decree's structural provisions. It is not General Host's power but Armour's with which the decree is concerned. And it is not General Host's ambitions in the food industry, but the addition of Armour's power to a firm in the product lines in which General Host is engaged that the decree condemns. The separation between the defendant packers and firms engaged in substitute food lines is destroyed when one of the defendants becomes financially associated with a firm in the prohibited lines, regardless of the form which the transaction takes. It is thus immaterial whether a defendant itself engages in a prohibited business, acquires an interest in that business, consents to its own acquisition by such a firm, or is acquired by such a firm against its will by a successful tender or exchange offer to its stockholders. The structural dangers against which the decree was directed are present in all these situations.

By attempting, through its exchange offer, to take over Armour and thereby create the kind of relationship prohibited by the decree, General Host has interfered with Armour's obligation not to engage directly or indirectly in legal or economic association with firms dealing in bakery products or selling groceries, fresh milk and cream or meat at retail. In effect General Host's takeover of Armour forces that company involuntarily to violate the decree. As an economic reality, the acquisition intereferes with the op-

eration of the decree to the same extent as would an acquisition of General Host by Armour.

The court below failed to recognize that the decree's structural provisions were designed comprehensively to terminate the corporate defendants' relationships with firms in the substitute food lines and to prevent them from being renewed. That is why the decree not only required divestiture, but permanently barred the corporate defendants from having any stock or other financial interest in such firms. The decree thereby foreclosed any contention that a bare stock interest is not, of itself, evidence of a specific abuse of the relationship, or, as the district court stated (App. 162), that it is sufficient to wait to see if General Host will actually use its control of Armour for the forbidden purposes. For the structural prohibitions in the decree—and of particular importance here, the restrictions against any stock or financial relationship—were prophylactic in purpose; they were designed to eliminate the need for proof in particular future situations that the meat packers were actually injuring competition by operations in the prohibited lines.[16]

[16] Referring to this prophylactic purpose, this Court observed in *Swift II* (286 U.S. at 118–119):

"* * * If the grocery business is added to the meat business, there may be many instances of unfair pressure upon retailers and others with the design of forcing them to buy from the defendants and not from rival grocers. Such at any rate was the rationale of the decree of 1920. Its restraints, whether just or excessive, were born of that fear. The difficulty of ferreting out these evils and repressing them when discovered supplies an additional reason why we should leave the defendants where we find them * * *."

In short, the fact that "General Host, a wholly separate corporate entity, has acquired some shares of Armour stock and evinced an interest in acquiring additional shares" (F. 24, App. 151), plus the undisputed fact that General Host is a corporation engaged in the forbidden lines of commerce, was all the government was required to show to obtain an order terminating the General Host-Armour relationship, as an interference with the decree. And General Host does now in fact have control of Armour.

The district court's contrary result is not justified by that court's theories that the decree does not "limit the business activities of non-defendant Armour stockholders nor * * * charge Armour with engaging in the business in which its controlling stockholders are engaged" (F. 20, App. 150), and that the structural provisions "apply only to the 'corporation defendants'" (F. 26, App. 151). For while the decree does not restrict the business activities or relationships of any non-defendant corporation, it does restrict Armour's. The decree bars Armour from having any ownership relation with corporations like General Host, and the latter's acquisition of a stock interest in Armour frustrates this restriction. It is this interference with the decree's operation on Armour which the court should have remedied.

General Host similarly attempts to escape the decree's structural provisions by arguing that they did not command a total separation of the meatpacker defendants "*and the interests that control them* from

the general grocery business and other specified product lines" (Motion to Affirm, p. 8; italics in original). This contention ignores the important distinction in the decree between (1) firms engaged in the forbidden lines and (2) individual defendant stockholders of the defendant packers. The latter, as individuals, were permitted to have up to fifty percent interest in such firms (paragraph Fifth, App. 34–36); Armour and the other defendant corporations were forbidden to have any interest whatsoever (paragraphs Fourth and Eighth, App. 30–34, 37–38). The decree was thus intended to establish an absolute separation between Armour and any *firm* engaged in the forbidden lines; there could be no inter-corporate proprietary relationship of any kind. All that was permitted were limited individual-corporate relationships, so long as no individual defendant stockholder of Armour had absolute stock control of any firm in the substitute food business. Since General Host is a corporation that is itself engaged almost exclusively in the forbidden lines of commerce (baked goods; retail meats, groceries, milk and cream; restaurants), its takeover of Armour conflicts directly with the prohibition against any such inter-corporate relationships in Paragraphs Fourth and Eighth, and should be restrained.

Completely irrelevant to the theory of the government's case, therefore, is General Host's argument (Motion to Affirm, p. 12) that the provisions of Paragraphs Fourth and Fifth do not apply to "successors and assigns" because, in contrast to Paragraph Third, these paragraphs do not include language referring to

successors or assigns."[17] General Host is challenged not as a successor to the individual stockholders but as a corporation interfering with Armour's duty to avoid affiliation with such corporations as General Host.

Nor is General Host's conduct immunized by asserted past interpretations of the decree. General Host refers particularly to the Prince family interests, which allegedly (App. 128–132) had controlled both Armour and the Chicago Union Stockyards at least since 1957, in possible contradiction of the restrictions in Paragraph Second (App. 29). Since the government never challenged this relationship, General Host contends, it follows that the decree must have been construed by the government as not ordaining a complete separation of the interests which control Armour from the forbidden lines of commerce. As we have already said, however, this is not our view of the decree's effect on a corporation engaged in any of the prohibited lines, nor even on an individual with absolute (over fifty percent) stock control of such a corporation. Even assuming that the Prince family's interests were inconsistent with the government's present theory of the decree, the government's failure to act in that situation hardly constituted an authoritative construction of the decree; nor does the government's failure to seek a restraint against one possible interference with the

[17] The presence or absence of such language is, in any event, not controlling in determining the obligations of a decree. *Regal Knitwear Co.* v. *National Labor Relations Board*, 324 U.S. 9; see Note, *Binding Nonparties to Injunction Decrees*, 49 Minn. L. Rev. 719, 727.

decree create an estoppel or otherwise immunize any other such interference.

This is not a case in which the government is seeking to vary the terms of the decree. We take it as we find it. Its structural prohibitions define the standard by which General Host's conduct in creating a stock relationship with Armour are to be tested as an interference with the injunction's operation and purpose. The fact that these provisions were established in a consent order rather than a contested suit is immaterial. For a consent decree is not a private contract; it is a judicial act (*Swift II*, 286 U.S. at 115) and it operates with the same force and effect as a litigated decree. If identical structural prohibitions had been enjoined upon Armour after trial (and we note the extensive history of litigation concerning this decree's provisions), the same standard for testing General Host's alleged interference with the decree's operation would apply. There is, therefore, no similarity between the issues involved in the present case and those that arise when an effort is made to modify the terms of a consent decree.[18]

Underlying the district court's approach to this case, and General Host's argument, there may be a

[18] See *United States* v. *Atlantic Refining Co.*, 360 U.S. 19; *Hughes* v. *United States*, 342 U.S. 353; *Liquid Carbonic Corp.* v. *United States*, 350 U.S. 869, reversing *per curiam* 123 F. Supp. 653 (E.D.N.Y.); *Ford Motor Co.* v. *United States*, 335 U.S. 303; Compare *Chrysler Corp.* v. *United States*, 316 U.S. 556; *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244. *Hughes*, in dictum at 357; *Chrysler, supra;* and *United Shoe Machinery, supra*, emphasize the power of an antitrust court to achieve the purpose of its decrees after appropriate hearing.

notion that the Meat Packers Decree is a punitive instrument and that it is unfair to visit upon General Host, by modifying the decree, the past sins of Armour in which General Host was obviously not implicated. Any such notion is completely inconsistent with the nature of a structural decree—especially a negotiated consent decree—and indeed with the philosophy of civil antitrust enforcement. The individuals who might have been responsible for the meat packers' monopolistic behavior prior to 1920 have long since been replaced, but neither this Court nor the district court has regarded that fact as any bar to enforcing the structural provisions of the decree against the beneficial interests of the more recent owners and officers of Armour and the other defendant corporations. The decree was, as we have shown, designed to provide continuing protection against the creation of specified economic situations—a purpose unaffected by the cause or motivation of the acts that would create such a situation.

2. Structural relief which restricts or eliminates a defendant's activities or financial interests in certain lines of commerce is an important instrument among the varied and flexible forms of remedy which have been decreed to prevent particular threats to competition. Such relief has been utilized in court orders in a variety of monopolization, merger and restraint of trade cases, most commonly to prohibit entry into certain lines of commerce by acquisition and some-

times—as here—to exclude companies from any kind of involvement in the prohibited lines."[19]

The prophylactic separation that such structural decrees are intended to establish will be seriously undermined if non-party firms in the forbidden lines can, by involuntary takeovers of defendants, create the very relationship the decree has condemned.[20] Since the remedial aspects of antitrust cases—whether terminated by consent or contested decrees—are of crucial importance to effectuation of the statutory objectives (*Cascade Natural Gas Corp.* v. *El Paso Natural Gas Co.*, 386 U.S. 129; *United States* v. *du Pont and Co.*, 366 U.S. 316, 323; cf. *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244, 252), the frustration of antitrust remedies by this means defeats the fundamental purposes of the antitrust laws. If antitrust decrees are to serve their purposes, supplemental relief of the kind sought here is essential.

---

[19] A representative listing is set forth in the Appendix to this brief, *infra*, pp. 35-37.

[20] The threat to antitrust enforcement posed by this case is as serious with respect to decrees which merely limit expansion by acquisition as it is with respect to decrees which require complete separation. Decrees which bar the defendant from making acquisitions in a particular line of commerce have the effect of preserving firms already in the protected market from elimination by acquisition and of preserving the defendant's status as a separate actual competitor or potential *de novo* entrant. If the prohibition against entry by acquisition could be circumvented through takeover of the defendant by a firm in the protected market, the decree's purpose to preserve the defendant's status as a separate actual or potential competitor would be defeated.

Where complete disaffiliation has been found to be necessary for effective relief, halfway measures will not do. General Host suggests (Motion to Affirm, p. 19, n. 10), for example, that a decree could protect against takeovers by specifying the composition of a firm's board of directors; but this would not serve to eliminate all the dangers of a stock inter-relationship between firms whose separation has been ordained. Cf. *United States* v. *du Pont and Co.*, 366 U.S. 316. And, obviously, an injunction remedying the defendant's violation cannot in terms enjoin all present and future firms in the forbidden lines of commerce from taking over a defendant; nor can it order the defendant not to allow itself to be involuntarily captured by such firms. Nor is it an adequate answer to say that such firms might later be joined as defendants and charged with a violation of the antitrust laws on the grounds alleged against the original defendant, or charged with a new violation. The very purpose of prophylactic structural relief is to obviate the need for new antitrust suits by foreclosing threatened violations before they can occur.

As substantive antitrust law dealing with monopolization and multi-line firms develops, relief which requires separation of defendant firms from certain markets will continue to be of importance to the reduction of excessive concentration in the economy. In recent years the device of the involuntary takeover by tender or exchange offer has become an increasingly

common means of corporate expansion.[21] If antitrust remedies are not to be frustrated by the mere form in which corporate amalgamations are cast, the district court's decision should not be permitted to stand.

---

[21] *The 1968 Merger Summary*, published by W. T. Grimm and Company, reported (p. 8) 249 tenders for 1968 as against 100 the previous year and 41 in 1966. The Grimm Company has released preliminary figures showing that in 1969 there were 149 tender offers, a decrease of 40 percent from the previous year. The figures remain relatively high, however, as compared with tender activity in earlier periods. The same is true of hostile takeovers. Between 1956 and 1960 a total of only 79 takeovers were counted; between 1964 and 1966 some 155 were counted. Note, *Cash Tender Offers*, 83 Harv. L. Rev. 377, n. 1.

Exchange offers in which securities are offered to a corporation's stockholders must be registered with the Securities and Exchange Commission. In July 1968 Congress, which was concerned about the takeover problem, enacted a statute requiring disclosure of certain information relating to cash tender offers for ten percent or more of any class of equity securities registered under the Securities Exchange Act. 15 U.S.C. (Supp. IV) 78m-n; see H. Rep. No. 1711, 90th Cong., 2d Sess.

Chairman Budge of the Securities and Exchange Commission last year testified on corporate takeovers. From July 29, 1968, to February 28, 1969, 54 cash tender offers were recorded involving a total offering price of more than $1,423,000,000. Between 1956 and 1968 the number of securities issues registered for exchange rose from 51 to 158. Such issues often involve, for tax purposes, a combination of preferred stock, debt securities and stock warrants. In 1968 more than $11,000,000,000 in securities was registered with the Commission for the purpose of exchange. Of course all such exchanges do not reflect involuntary takeovers. See Statement of Hamer H. Budge, Chairman, SEC, in *Tax Reform, 1969*, Hearings before the House Committee on Ways and Means, 91st Cong., 1st Sess., March 12, 1969, Part 7, pp. 2362-2382.

CONCLUSION

For the reasons stated, the order of the district court should be reversed and the case remanded with instructions directing that the General Host Corporation be made a party and that the relief sought in the government's petition be granted.[22]

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

WALKER B. COMEGYS,
Deputy Assistant Attorney General.

LAWRENCE G. WALLACE,
Assistant to the Solicitor General.

HOWARD E. SHAPIRO,
SEYMOUR H. DUSSMAN,
Attorneys.

JANUARY 1970.

[22] Although General Host has not formally been made a party in the district court, it submitted a full presentation on the merits and proposed findings and conclusions. In the circumstances there is no need for a further hearing.

APPENDIX

REPRESENTATIVE STRUCTURAL DECREES

United States v. *Owens-Corning Fiberglas Corp.*, 1948–1949 Trade Cases, ¶62,442 (N.D. Ohio): defendant enjoined from acquiring any ownership in assets or securities of any person engaged in the manufacture, sale or distribution of fiber glass products. (Paragraph XI.)

United States v. *Loew's, Inc.*, 1950–1951 Trade Cases, ¶62,861 (S.D.N.Y.): distributor defendants enjoined from exhibition business and exhibitor defendants from distribution (except with court permission). (Paragraph VI.)

United States v. *Western Electric Co., Inc.*, 1956 Trade Cases, ¶68,246: Western Electric enjoined from engaging in any business (with limited exceptions) not of a type presently engaged in by Western for the companies of the Bell System; A.T. & T. enjoined from any business but common carrier communications; defendants enjoined from acquiring, either through securities or assets, any manufacturer of common carrier communications equipment. (Paragraphs IV, V, and VIII.)

United States v. *International Cigar Machinery Co.*, 1956 Trade Cases, ¶68,426 (S.D.N.Y); defendant enjoined from acquiring, either by assets or securities, any person engaged in the cigar making machinery business. (Paragraph IX.)

United States v. *United Fruit Co.*, 1958 Trade Cases, ¶68,941 (E.D. La.): defendant enjoined from engaging in or acquiring any interest in a business engaged in importing or distributing bananas in the United States. (Paragraph VI(A)(2).)

United States v. *Anheuser-Busch, Inc.*, 1960 Trade Cases, ¶69,599 (S.D. Fla.): defendant enjoined from acquiring any shares of stock of any corporation brewing beer in Florida or acquiring any interest in any brewing facility or plant of any person engaged in the brewing of beer in Florida. (Paragraph IV (A).)

United States v. *Azteca Films, Inc.*, 1960 Trade Cases, ¶69,683 (S.D.N.Y.): defendant enjoined from establishing or acquiring ownership or control of any non-defendant distributor. (Paragraph IV(M).)

United States v. *Driver-Harris Co.*, 1961 Trade Cases, ¶70,031 (D. N.J.): defendants enjoined from acquiring a financial interest or capital stock of any other manufacturer of electric resistance materials. (Paragraph VIII(C).)

United States v. *MCA, Inc.*, 1962 Trade Cases, ¶70,459 (S.D. Calif.): defendant enjoined from engaging in or acquiring any interest in the talent agency business. (Paragraph IV(1).)

United States v. *America Corporation*, 1963 Trade Cases ¶70,923 (S.D. Calif.): defendant enjoined from acquiring all or any part of any interest in any person engaged in the business of professional film processing (except such a business in the New York metropolitan area and in the midwest area). (Paragraph VI.)

United States v. *The House of Seagram, Inc.* (S.D. Fla. 9/23/65) (opinion but not decree reported in 1965 Trade Cases, ¶71,517; see footnote 1, page 81,275): defendant barred from acquiring or retaining any financial interest in or participation in the management of any liquor wholesaler in Florida. (Paragraph VI(f).)

United States v. *General Motors Corporation,* 1965 Trade Cases, ¶71,624 (E.D. Mich): defendant enjoined from owning any financial interest in another bus manufacturer. (Paragraph IV(A).)

United States v. *Joseph Schlitz Brewing Company,* 253 F. Supp. 129, at 183 (N.D. Calif.): defendant enjoined from acquiring stock of any corporation or any interest in any brewery engaged in the brewing of beer in California (Paragraph IV.)

United States v. *Grinnell Corporation* (D. R.I., 7–11–67) (judgment not reported): defendants enjoined from acquiring the stock, assets or business of any enterprise engaged in furnishing central station protection. (Paragraph V(C).)

United States v. *Curtis Circulation Company, Inc.,* 1967 Trade Cases, ¶72,279 (D. N.J.): defendants enjoined from holding an interest in any national distributor or wholesaler of publications. (Paragraph VI(B).)

United States v. *Dentists Supply Co. of New York,* and *United States* v. *Pennsalt Chemicals Corp.,* 1967 Trade Cases, ¶72,321 and 72,322 (E.D. Pa.): defendants barred from acquiring any financial interest in any dental supply house. (Paragraphs V of both decrees.)